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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Chapter III

[Docket No.: 160606489-6489-01]

RIN 0625-AB07

Clarification and Update of the Trade Fair Certification Program

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The U.S. Department of Commerce (Commerce) is intending to update the Trade Fair Certification Program, which recognizes and endorses U.S. participation in selected, privately organized, foreign trade fairs, in the coming months. Proposed changes will be announced through the Federal Register and comments will be solicited and reviewed before a final rule is issued. This ANPRM solicits feedback on some of the concepts Commerce is considering for the update, and reiterates the requirements, procedures, and application review criteria of the current Trade Fair Certification Program, originally published April 30, 1993. The purpose of this document is to reiterate existing terms in the 1993 document in order to inform the public of proposed guidelines. The concepts being considered for updating the program can be found in the last section of the Supplementary Information section of this document.

DATES: Comments on the proposed changes to the Program are due 20 days upon the date of publication in the Federal Register.

ADDRESSES: You may submit comments, identified by the regulations.gov docket number ITA-2016-0005, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov#!docketDetail;D=ITA-2016-0005* click the “Comment Now” icon, complete the required fields, and enter or attach your comments.
- Mail: Vidya Desai, Senior Advisor, Trade Promotion Programs, U.S. Department of Commerce, 1300 Pennsylvania Ave NW, Mezzanine Level Suite 800, Washington, DC 20004.

Instructions: You must submit comments by one of the above methods to ensure that Commerce Department receives the comments and considers them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

Commerce Department will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Vidya Desai, Senior Advisor, Trade Promotion Programs, International Trade Administration, U.S. Department of Commerce, 1300 Pennsylvania Ave., NW, Ronald Reagan Building, Suite 800M - Mezzanine Level - Atrium North, Washington, D.C. 20004; Telephone (202) 482-2311; Facsimile: (202) 482-7800; Email: tfc@trade.gov.

SUPPLEMENTARY INFORMATION:

A summary of the points from the 1993 document (58 FR 26116, April 30, 1993) in this document are below in Section I. However, comments are specifically being requested on Potential Concepts for Program Changes found in Section II.

Section I: Summary

- A \$2,000 non-refundable participation fee¹ is required within 10 days of notification of Certification. This fee covers support from the local U.S. & Foreign Commercial Service (USFCS) office in the location of the fair, logistical and organizational services from the Trade Fair Certification staff at headquarters, and support provided by Commerce staff and resources generally. Additional value added services, such as coordination of business to government meetings, will be assessed an additional fee determined based on the costs attributed to coordinating such services and having the appropriate Commerce staff present to fulfill such activities.
- Applications must be received no later than 9 months prior to the commencement of the fair for which Certification is sought, but no earlier than the conclusion of the prior event.
- Overseas trade fairs must commit to recruiting a minimum of 10 U.S. exhibitors for Trade Fair Certification consideration.
- The USFCS logo will be authorized for use by a Certified Trade Fair to aid in recruitment of U.S. exhibitors.
- For fairs occurring in cities or locales where there is no USFCS Office, or where the Commerce staff responsible for the industry theme of such if fair is not local, the presence of Commerce staff at the fair may be considered a value added service and incur additional fees for the organizer.
- First time and horizontal fairs are not eligible for Certification.

¹ While the level of this fee is not reflected in the TFC document, 58 FR 26116 of April 30, 1993, it has continually been announced to the public on the webpage Trade Fair Certification Program Description & Benefits at http://export.gov/tradefairs/eg_main_018560.asp.

- Applicants applying for Certification of an existing trade fair must have experience in recruiting U.S. exhibitors for that show or another show with the same industry theme.
- Applications for Certification must include satisfactory documentation, in English, of the commitment of necessary exhibit space by the owner or lessor of the facility in which the fair will be held. Documentation should consist of: (1) A lease or letter from the owner or lessor stating that the applicant holds the necessary exhibition space, or (2) a letter demonstrating an offer of specific exhibition space by the owner or lessor of the facility; and a letter indicating the applicant's acceptance of the terms.
- Only applications submitted by U.S. persons or entities will be considered. For this purpose, the U.S. subsidiary, branch or agent of a foreign firm is considered a U.S. person or entity. Applications for fairs in which the applicant does not lease exhibit space directly, but relies on their parent foreign fair organizer to obtain exhibit space, must be submitted by the foreign fair organizer and co-signed by the U.S. subsidiary, branch or agent.
- Certified fair organizers must provide a list of recruited U.S. exhibitors to the Commerce Project Officer. The list should include the exhibitor's name, address, products displayed and the name, email address and phone number of the exhibitor's international sales contact². The list must be received 45 days prior to the event.
- In order for the fair organizer to consider a participant a U.S. exhibitor, the participant must be (1) a U.S. citizen, U.S. corporation, or a foreign corporation that is more than 95% U.S.-owned and (2) the products it exhibits at the fair must be: (a) manufactured or produced in the United States, or (b) if manufactured or produced outside of the United States, marketed under the name of a

² If disclosure of this information is in violation of an organization's written privacy policy agreement with its members, the Show Organizer may opt out of providing this information.

U.S. firm and have U.S. content representing at least fifty-one percent of the value of the finished good or service.

The following reiterates the Trade Fair Certification (TFC) Program as set out in 58 FR 26116 of April 30, 1993:

The Department of Commerce established the TFC Program in 1983 to encourage qualified private sector fair organizers to recruit U.S. exhibitors for overseas trade fairs. The Program provides the private sector with greater opportunities to work with Commerce in support of U.S. participation in overseas trade fairs. Private sector organizers of a Certified Trade Fair assume the responsibilities of organizing the fair, or U.S. participation in it. Certification assures the private sector organizer of Commerce recognition and support of its efforts to recruit U.S. exporters.

Certification provides a means for U.S. exporters to verify that a particular trade fair will be a good promotional medium providing good export opportunities. Prospective U.S. exhibitors at Certified Trade Fairs know that Commerce personnel will be available to assist them and to counsel them about export matters that may arise before, during or after the show. Certification thus indirectly serves the U.S. manufacturer or service provider seeking export opportunities.

Certification is for one fair only; fairs that have been certified previously must apply for certification again for any future anticipated event. This allows Commerce to evaluate the latest market conditions in determining whether to certify each fair. Commerce does not provide any financial assistance to organizers or to exhibitors at Certified Trade Fairs.

There is no fee required to submit an application. If Certification is approved, a participation fee of \$2,000 is required. The participation fee is due within 10 days of notification of acceptance into the program.

Certification indicates that Commerce has found the applicable fair to be a good export opportunity warranting participation by U.S. exporters. Certification indicates that the fair and the organizer have met basic criteria and that the organizer is qualified to perform in a manner supportive of

Commerce's objectives. However, Certification does not constitute a guarantee of the fair's success or of the organizer's or exhibitor's performance. Commerce limits Certification to fairs that in its judgment, most clearly meet the program objectives and selection criteria set out herein.

Eligibility: All international/overseas trade events are eligible to apply for Trade Fair Certification, through a U.S. agent (person or entity).

Exclusions: Trade shows that are either first-time or horizontal (non-industry specific) events generally will not be considered. For the purposes of the TFC program, a first-time fair is a distinct, separate trade fair that has not been held before in the relevant country. The term "first-time event" does not refer to a fair different in name only from a previous, identical fair. A fair developed for the first time as a "breakout" from an existing trade fair will be considered a first-time fair. Applications for a fair that occurs in different countries on a rotating basis under the same title will be considered provided the fair has occurred in the relevant country during the preceding five years.

General Evaluation Criteria: Commerce will evaluate shows for Trade Fair Certification using the following criteria:

(a) The fair must be a good export opportunity for the featured industry or industries. The fair must have good potential for U.S. export promotion. In applying this criterion, Commerce will consider such factors as: Whether the fair's industry theme is included in Commerce's Top Market reports, Country Commercial Guides, and input from US&FCS offices in the relevant region;

(b) The degree to which the fair provides promise of foreign market exposure for the latest technology or techniques in an industry or in a commercially recognized category of goods or services in the sector or field promoted by the fair;

(c) Whether the fair provides a unique opportunity for export promotion within a particular market;

(d) The appropriateness of the fair for a minimum of 10 U.S. exhibitors, ideally located in an identifiable U.S. pavilion within the show; and

(e) Whether U.S. exhibitors are likely to exhibit goods or services representing U.S. industry in the particular field involved.

(f) The theme, timing and location of the fair; previous exhibitors' experience with the organizer; the USFCS office's familiarity with the fair (and if applicable, its recommendation in its end-of-show report for the previous event); and whether Commerce's support would contribute to the enhancement of the U.S. exhibitor's export potential.

In order for a fair organizer to consider a participant a U.S. exhibitor, the participant must be (1) a U.S. citizen, U.S. corporation, or a foreign corporation that is more than 95% U.S.-owned and (2) the products it exhibits at the fair must be: (a) manufactured or produced in the United States, or (b) if manufactured or produced outside of the United States, marketed under the name of a U.S. firm and have U.S. content representing at least fifty-one percent of the value of the finished good or service.

Application Requirements: Applicants submitting applications for Trade Fair Certification must submit: (1) a narrative statement addressing each question in the application, Form ITA 4100P (found at www.export.gov/tradefairs); (2) a signed statement that "The information submitted in this application is correct and the applicant will abide by the terms set forth in the Participation Agreement and Conditions of Participation;" (3) any other relevant information. **All application materials must be submitted via email to TFC@trade.gov no later than 270 days (9 months) prior to the first day of the fair, and no earlier than the conclusion of the prior occurrence of the event.** There is no fee required to apply.

Certified Trade Fair Organizer Responsibilities:

Applicants will be notified via email 4-6 weeks from the date of application submission as to their selection status.

A Certified Trade Fair Organizer is expected to:

(a) Pay the \$2,000 non-refundable participation fee for Trade Fair Certification to Commerce within 10 business days of notice that the fair has been certified;

(b) Designate an individual on the organizer's staff to act as the point-of-contact for Commerce staff on all aspects of the show with Commerce personnel;

(c) Provide the following exhibition services:

- Display space comparable with industry standards for similar trade events;
- Freight forwarding and exhibit set-up services including, but not limited to, the unloading of participants' equipment at the exhibition site, delivery to the participants' booths, unpacking, placement in display area, storing packing crates, repacking and loading for onward shipment, customs clearance, and any other services required to assure the prompt and orderly receipt and dispatch of material in and out of the exhibition site;
- Installation of a display system, chairs, tables, standard company identification and standard opening identification signs;
- Utilities and hook-up services; and
- Assistance in hiring interpreters, clerical personnel or booth attendants as required by participants.

All fees to be charged to participants for standard and supplementary services must be stated in the organizer's application and be within reasonable range of such charges in the market as can be verified by Commerce's post in-country.

(d) Undertaking, as appropriate, a comprehensive promotional campaign, such as in-country pre-show press conferences and meetings to reach importers, distributors, agents, buyers and end-users;

(e) Provide, at no cost to the Post, space and a furnished booth for use as the Business Information Office (BIO). If a U.S. pavilion is utilized, the BIO should be co-located with the exhibitors in the U.S. pavilion.

(f) In keeping with Commerce's mandate, show evidence of efforts to target infrequent exporters (new-to-market firms) and small and medium sized firms in its recruitment efforts.

(g) If the fair is located at a site where there is no US&FCS office or where the Commerce staff responsible for the show's industry theme is not local, pay the per-diem and travel-related expenses that exceed the allocation for such expenses in the participation fee, subject to Commerce's guidelines.

(h) Provide a list of recruited U.S. exhibitors to the Commerce project officer 45 days prior to the commencement of the fair.

(i) Certify that the products and services the recruited U.S. exhibitors seek to market at the fair:

1. Are manufactured or produced in the United States, or
2. If manufactured or produced outside of the United States, are marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

(j) Prominently display the US&FCS logo or International Trade Administration (ITA) emblem on event promotional materials, exhibition booth fascia, and throughout the U.S. pavilion, if one is organized, in accordance with applicable Commerce Department logo use policies.

The Trade Fair Certification Program is the principal program Commerce uses to support private sector recruitment and organization of overseas trade fairs. As a condition of using the US&FCS logo or ITA emblem for a Certified Trade Fair, it must be the dominant logo used to promote the fair to U.S. exhibitors;

- If other U.S. Government or non-government logos are used, they must appear smaller than the US&FCS logo or ITA emblem and may not be co-mingled with the US&FCS logo or ITA emblem.
- Documentation of the use of the US&FCS logo or ITA emblem should be sent to Commerce for recordkeeping. Advance review of the use is not required. Fair organizers are encouraged to ask Commerce for guidance on the proper use of its logos/emblems.
- Failure to abide by Commerce policies on the proper use of its logos/emblems may result in the fair being de-certified.

Commerce reserves the right to “decertify” a fair at any time after Certification is granted if the organizer has not or is not likely to fulfill its responsibilities as a Certified Trade Fair organizer. In such an event, the organizer shall remain solely responsible for its obligations to the recruited U.S. exhibitors. Commerce may withdraw all assistance and support, including the right of the organizer to use the US&FCS logo or ITA emblem.

Department of Commerce Services and Responsibilities:

Commerce support provided for Certified Trade Fairs will generally be the same for all certified fairs, but minor variances may exist, depending on the circumstances of the fair, and the specific needs of the organizer and of Commerce.

For a Certified Trade Fair, Commerce is expected to:

- (a) Provide a certificate designating that the fair as being certified by the U.S. Department of Commerce;
- (b) Authorize the use of the US&FCS logo and the ITA emblem on appropriate fair publicity materials, in accordance with applicable Commerce Department logo use policies;
- (c) Provide authorization for the use of other Commerce-approved references that indicate the Department recognizes and supports the fair, in accordance with Commerce policies;
- (d) Provide a designated project officer to assist the organizer and act as a Commerce point-of-contact;
- (e) Provide the organizer, upon request, with relevant public Commerce reports and publications;
- (f) Encourage potential U.S. exhibitors, through Commerce's normal course of export counseling or through contacts with business and trade associations, to consider participation in the Certified Trade Fair and refer inquiries to the show organizer; and
- (j) Upon request and to the extent available, arrange counseling for U.S. exhibitors by U.S. Export Assistance Center Trade Specialists and Industry and Analysis Industry Analysts in advance of the fair.

Local US&FCS Office Services and Responsibilities:

In addition to the general Commerce support listed above, the designated US&FCS office for the Certified Trade Fair is expected to:

- (a) Furnish the organizer with a list of key local associations, distributors, agents, government entities, and other relevant information;

(b) Promote the fair locally by including an announcement of the event in its commercial newsletter or the equivalent;

(c) Upon request and subject to the availability of resources, provide staff at a Business Information Office to counsel U.S. exhibitors, facilitate contacts between exhibitors and visitors, and promote US&FCS services. The BIO cannot be used for any other purpose, unless agreed to by the US&FCS office; and

(d) Upon request and subject to the availability of resources, provide additional services, such as: A U.S. exhibitor briefing; reception; promotional mailing; ribbon-cutting ceremony; press conference; etc. If the costs of these additional services exceed the allocation of the participation fee for the US&FCS Office, the organizer will incur an additional fee. Such costs will be determined by the Senior Commercial Officer at the designated US&FCS Office.

Legal Authority:

Authority for the Trade Fair Certification Program is provided by 15 U.S.C. section 4721, which authorizes US&FCS to promote U.S. exports and support U.S. commercial interests abroad, and the Mutual Educational and Cultural Exchange Act (MECEA) of 1961 (22 U.S.C. 2455(f) and 2458(c)), as incorporated into ITA's annual appropriations act, Public Law 114-113, 129 Stat. 2287.

Section II. Potential Concepts for Program Changes

The Department of Commerce intends to make significant changes to the Trade Fair Certification Program in the future. Some of the potential concepts under consideration may include, but are not limited to, the bulleted list below. We welcome public comments on these concepts.

- The Department is considering changing the application timeframe from rolling applications to an annual application period, meaning applications will be collected during a 45-60 day application period held once a year.

- The Department is considering increasing the price of the Program.
- The Department is considering offering Trade Show Organizers an a la carte menu of services instead of one standard service. Prices will be associated with each service option.
- The Department is considering tiers of service with different levels of Departmental engagement priced at different levels.
- The Department is considering raising the minimum number of U.S. exhibitors from 10 to 25 or more.
- The Department is considering changing the minimum number of U.S. exhibitors from 10 exhibitors to a set percentage of the total number of exhibitors.
- The Department is considering issuing a formal Memorandum of Agreement, outlining the responsibilities of both parties and signed by both parties, for selected shows.

Electronic Submission of Comments: Interested persons are invited to submit comments regarding this advance notice of proposed rulemaking according to these instructions. Commenters should make online submissions using <http://www.regulations.gov>. Comments should be submitted under ITA-2016-0005. To find this docket, enter the docket number in the “Enter Keyword or ID” Window at the <http://www.regulations.gov> home page and click “Search.” The site will provide a search-results page listing all documents associated with the docket number. Find a reference to this document by selecting “Proposed Rule” under “Document Type” on the search-results page, and click on the link entitled “Submit a Comment.” The <http://www.regulations.gov> website provides the option of making submissions by filling in a comments field, or by attaching a document. ITA prefers submissions to be provided in an attached document. (For further information on using <http://www.regulations.gov>, please consult the resources provided on the website by clicking on the “Help” tab.) Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter

in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

All comments submitted in response to this document will be made available to the public so should not include any privileged or confidential business information. The file name should begin with the character “P” (signifying that the comments contain no privileged or confidential business information and can be posted publicly), followed by the name of the person or entity submitting the comments.

Frank Spector,
[Senior Advisor for Trade Missions](#)
Trade Promotion Programs

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